

Small Business Administration

§ 107.230

and Investments, and the experience and qualifications of your owners and managers.

§ 107.210 Minimum capital requirements for Licensees.

(a) *Minimum capital for Section 301(c) Licensees—general rule.* A Section 301(c) Licensee or applicant must have Regulatory Capital (excluding commitments from your investors) of at least \$2,500,000.

(b) *Minimum capital for Section 301(d) Licensees—general rule.* A Section 301(d) Licensee or applicant must have Regulatory Capital (excluding commitments from your investors) of at least \$1,500,000.

(c) *Exception to general rule—grandfather clause.* The minimum capital requirements in paragraphs (a) and (b) of this section do not apply if you were licensed before October 2, 1990, or if SBA had your license application on file before October 2, 1990 and granted you a license on the basis of such application. If you qualify for this exception, you must have at least the minimum Private Capital required by the regulations in effect on October 1, 1990.

(d) *Additional capital requirements for Licensees seeking Leverage.* If you are a license applicant who intends to seek Leverage, see § 107.220.

§ 107.220 Special minimum capital requirements for Licensees issuing Leverage.

(a) *Participating Securities.* You must have Regulatory Capital of at least \$10,000,000 in order to apply for Participating Securities, unless you demonstrate to SBA's satisfaction that you can be financially viable over the long term with a lower amount. You are not permitted under any circumstances to apply for Participating Securities if your Regulatory Capital is less than \$5,000,000.

(b) *Debentures.* If you are licensed after January 31, 1996, you must have Regulatory Capital of at least \$5,000,000 in order to apply for Debentures, unless you demonstrate to SBA's satisfaction that you can be financially viable over the long term with a lower amount.

(c) *Companies licensed before October 2, 1990.* If § 107.210(c) applies to you and your Regulatory Capital (excluding

commitments from investors) is below \$2,500,000 (for a Section 301(c) Licensee) or \$1,500,000 (for a Section 301(d) Licensee):

(1) You are eligible for Leverage (other than refinancing) only if you can demonstrate to SBA's satisfaction that you have been profitable for three out of your last four fiscal years before applying for Leverage and, on the average, have been profitable for all such fiscal years.

(2) Even if you do not satisfy paragraph (c)(1) of this section, you may apply for Leverage needed to refinance any Debenture outstanding on October 2, 1990, one time only, for a term to be determined by SBA.

§ 107.230 Permitted sources of Private Capital for Licensees.

Private Capital means the contributed capital of a Licensee, plus unfunded binding commitments by Institutional Investors (including commitments evidenced by a promissory note) to contribute capital to a Licensee.

(a) *Contributed capital.* For purposes of this section, contributed capital means the paid-in capital and paid-in surplus of a Corporate Licensee, or the partners' contributed capital of a Partnership Licensee, in either case subject to the limitations in paragraph (b) of this section.

(b) *Exclusions from Private Capital.* Private Capital does not include:

(1) Funds borrowed by a Licensee from any source.

(2) Funds obtained through the issuance of Leverage.

(3) Funds obtained directly or indirectly from any Federal, State, or local government, or any government agency or instrumentality, except for funds invested by a public pension fund and "Qualified Non-private Funds" as defined in paragraph (d) of this section.

(4) Any portion of a commitment from an Institutional Investor with a net worth of less than \$10 million that exceeds 10 percent of such Institutional Investor's net worth and is not backed by a letter of credit from a State or National bank acceptable to SBA.

(c) *Non-cash capital contributions.* Capital contributions in a form other than cash are subject to the limitations in § 107.240.